



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** S.T. Research Corporation--  
Request for Reconsideration  
**File:** B-232751.2; B-232751.3  
**Date:** February 24, 1989

### DIGEST

1. General Accounting Office (GAO) will not consider the merits of an untimely protest by invoking the significant issue exception in GAO's Bid Protest Regulations, where the protest does not raise an issue of first impression that would be of widespread interest to the procurement community.
2. Protest against sole-source award prior to expiration of a 45-day period provided for expression of interest by other firms stated in Commerce Business Daily is denied where the protester has failed to show that it was prejudiced.

### DECISION

S.T. Research Corporation requests reconsideration of our decision, S.T. Research Corp., B-232751, Oct. 11, 1988, 88-2 CPD ¶ 342, in which we dismissed as untimely S.T.'s protest of the Navy's proposed sole-source award to ARGOSystems, Inc., of contract No. N00024-87-G-5031, for two single package antenna systems. We affirm the dismissal. S.T. also filed another protest against award to ARGOSystems subsequent to our dismissal of the first protest, which we deny.

S.T. had protested that the award of the antenna systems on a sole-source basis was contrary to the mandate of the Competition in Contracting Act of 1984, 10 U.S.C. § 2304 (a)(1)(A) (Supp. IV 1986), for "full and open competition." We dismissed the protest as untimely because it was filed more than 10 working days after S.T. knew or should have known the basis of its protest.

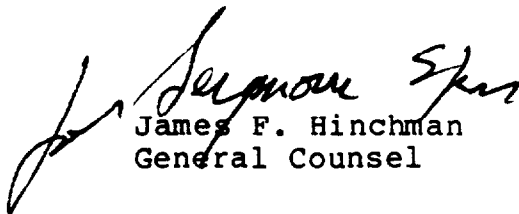
In its request for reconsideration, S.T. argues that we should consider its protest under section 21.2(b) of our Bid Protest Regulations, 4 C.F.R. Part 21 (1988), which sets out an exception to our timeliness rules for issues that are significant to the procurement community.

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In order to prevent the timeliness requirements from becoming meaningless, we strictly construe and seldom use the significant issue exception, limiting it to protests that raise issues of widespread interest to the procurement community and which have not been considered on the merits in a previous decision. See Delaware Eastwind, Inc., B-228533, Nov. 18, 1987, 87-2 CPD ¶ 494. We have numerous decisions setting forth the basic principles governing sole-source procurement under the law applicable to this procurement. See, e.g., C & S Antennas, Inc., 66 Comp. Gen. 254 (1987), 87-1 CPD ¶ 161. Thus, while we recognize the importance of the matter to the protester, we do not think the propriety of this sole-source procurement is a significant issue under our Bid Protest Regulations.

As a result of documentation S.T. requested and received under the dismissed protest, S.T. has filed another protest (B-232751.3) with our Office objecting to the Navy's award of the contract to ARGOSystems 20 days after the synopsis of the proposed sole-source award was published in the Commerce Business Daily (CBD). A footnote referenced in the CBD notice indicated offerors had 45 days to identify their interest and capability to respond to the requirement.

The contract award by the Navy 20 days after publication of the CBD notice is a procedural deficiency which does not provide a basis of protest and did not prejudice S.T. S.T. never submitted a proposal or offered any evidence of its capability to produce the single package antenna in response to the CBD notice, even though it was unaware of the award being made to ARGOSystems prior to the expiration of the 45 days announced in the CBD until 3 months later. Furthermore, the Navy reports S.T. has not yet submitted any evidence of its capability to produce the required antenna. Therefore, the Navy's action in awarding prior to expiration of the 45 days did not prejudice S.T. regarding the submission of a proposal. Therefore, this protest basis is denied.

  
James F. Hinchman  
General Counsel